IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SEVENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION No: 21840 of 2004

Between:

S.Venkateswarlu, S/o.S.Pullaiah,
The Residential school for the Deaf, Avanthipuram, Miryalguda, Nalgonda District.

..... PETITIONER

AND

1 The Special Commissioner & Director, Disabled Welfare Department, Chandravihar, Nampally, A.P.Hyderabad.
2 K.Seetharama Rao, S/o. and age not known,
Avanthipuram, Miryalgudam, Nalgonda.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of Mandamus, to declare the order of the Hon'ble A.P.Admn. Tribunal, Hyderabad dt.21-7-2004 passed in O.A.NO.2249/2000 as illegal, arbitrary, unjust and consequently set aside the same.

Counsel for the Petitioner: MR.PALLENAGESWAR RAO

Counsel for the Respondents: GP FOR SERVICES II

The Court at the stage of admission made the following:

ORAL ORDER:- (PER GB,J.)

The Writ Petition is filed assailing the order, dated 21.07.2004, passed by the Andhra Pradesh Administrative Tribunal in O.A.No.2249 of 2000.

2. The petitioner was appointed as a Trained Graduate Teacher. He seeks promotion to the post of Post-Graduate Teacher on the ground that on the date of appointment itself, he was a Post-Graduate, and therefore, he should have been promoted.

3. The Tribunal, after considering the matter, disposed of the O.A. with the following directions.

> "An argument is sought to be advanced by the learned counsel for the applicant that the posts have to be filled up and cannot wait till one acquires qualification to fill them up. But that does not mean that all the sanctioned posts should be filled up irrespective of the need to fill them up. This Tribunal is of the opinion that unless there is need to fill up the posts depending upon the work load, the authorities cannot be compelled to fill up the posts. As regards the contention of the applicant that the 2nd respondent and others

> though not qualified were given promotion, ignoring the claims of the applicant who is senior to them, the respondents are directed to ascertain the fact and if juniors to the applicant who are not qualified are given promotion, they have to be demoted. Therefore, action should be taken to ascertain the need to fill up the posts and as on that date persons who are eligible and qualified alone have to be considered for promotion in accordance with their seniority. Necessary action should be taken in this regard within a period of two months from the date of receipt of copy of this order. The O.A. is accordingly disposed of. No costs."

Aggrieved by the order of the Tribunal, the present Writ Petition has been filed.

4. Learned counsel for the petitioner submits that the persons who joined later to the petitioner were promoted as Post-Graduate Teachers, but the petitioner who possess the Post-Graduate qualification itself at the time of appointment, is not promoted and therefore, he seeks appropriate direction.

5. We have also heard the learned counsel for the respondents.

6. The Tribunal has already taken this issue into consideration and disposed of the O.A. with the directions referred to above. Thus, we do not find any reason to interfere with the order of the Tribunal.

7. In pursuance of the orders of the Tribunal, the respondents passed orders dated 6.10.2004. In view of this, the Writ Petition itself is not maintainable.

8. Accordingly, the Writ Petition is dismissed. No costs.

9. However, it is open to the petitioner to challenge the consequential order referred to above, if he so chooses.

G. BIKSHAPATHY. J.

P.S. NARAYANA, J.

Date: 07.02.2004

ES

To

1 The Special Commissioner & Director, Disabled Welfare Department, Chandravihar, Nampally, A.P.Hyderabad.
2 The Registrar, A.P. Administrative Tribunal, Hyderabad.

3 2 CCs to the G.P. for Services-II, High Court of A.P., Hydrabad (OUT).

4 2 CD copies